

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

FRANK PICKLE,

Plaintiff,

vs.

DR. KOHUT, et al.,

Defendants.

CV 18-00029-H-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Frank Pickle ("Pickle") filed a Complaint alleging that Defendants were deliberately indifferent to his serious medical needs when they denied him various elective surgeries and proper medications for pain and heartburn. (Doc. 1.) He also alleges that Defendants denied him access to the courts. (Doc. 1.) Defendants Dr. Tristan Kohut, Benjamin Fry, Director Reginald Michael, Rodney Johnson, Sandra Shaver, Misty Swanson ("State Defendants") and J.D. Moore, M.D., moved for summary judgment. (Docs. 49, 53).

United States Magistrate Judge John T. Johnston issued Findings and Recommendations on April 23, 2020. (Doc. 72.) Judge Johnston recommends that the Court grant both State Defendants' and Defendant Moore's Motions for

Summary Judgment. (Doc. 72 at 29). Pickle filed an objection to Judge Johnston's Findings and Recommendations on May 10, 2020. (Doc. 73.)

The Court reviews de novo those Findings and Recommendations to which a party properly objected. 28 U.S.C. § 636(b)(1). A proper objection requires more than a generalized objection to the magistrate judge's Findings and Recommendations. *Alcantara v. McEwen*, 2013 WL 4517861, *1, 2013 U.S. Dist. LEXIS 116055 (S.D. Cal.). The Court reviews for clear error the portions of the Findings and Recommendations to which the party did not specifically object. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). This is true even where the plaintiff proceeds *pro se*. *Alcantara*, at *3.

Pickle objects to Judge Johnston's Findings and Recommendations. (Doc. 72.) His objections do not identify with specificity any error the Magistrate Judge may have made. Plaintiff advances the same arguments in his Objections (Doc. 72) that he previously raised in Plaintiff's Response to Defendant Moore's Motion for Summary Judgment (Doc. 57), Plaintiff's Statement of Disputed Facts (Doc. 60), Plaintiff's Response to Defendants' Motion to Strike Statement of Disputed Facts (Doc. 64), Plaintiff's Statement of Disputed Facts (Doc. 65), Plaintiff's Response to Defendants' Motion to Strike Statement of Disputed Facts (Doc. 66), and

Plaintiff's Reply to Defendants' Reply to Plaintiff's Response to Defendant's Motion to Strike Statement of Disputed Facts (Doc. 70). Judge Johnston considered those arguments in making his recommendation to the Court. The Court finds no other specific objections that do not attempt to relitigate the same arguments and reviewed Judge Johnston's Findings and Recommendations for clear error. The Court finds no error.

Accordingly, **IT IS ORDERED** as follows:

1. Judge Johnston's Findings and Recommendations (Doc. 72) are **ADOPTED IN FULL**.

2. Defendants Kohut, Fry, Michael, Johnson, Shaver, and Swanson's Motion for Summary Judgment (Doc. 49) is **GRANTED**.

3. Defendant Moore's Motion for Summary Judgment (Doc. 53) is **GRANTED**.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable

person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

DATED this 1st day of June, 2020.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Brian Morris, Chief District Judge
United States District Court